

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

Patrick Guillory,
Plaintiff,

-v-

9:13-CV-378 (NAM/TWD)

**Cheryl Morris, Paul Greenth, Maureen Boll, and
Officer Potter,**
Defendants.

z APPEARANCES:

Patrick Guillory
09-B-0714
Southport Correctional Facility, P.O.Box 2000
Pine City, New York 14871
Plaintiff, *pro se*

Hon. Eric T. Schneiderman, Attorney General of the State of New York
Richard Lombardo, Esq., Assistant New York State Attorney
The Capitol
Albany, New York 12224
Attorney for Defendants

Hon. Norman A. Mordue, Senior U.S. District Judge:

MEMORANDUM-DECISION AND ORDER

Defendants moved (Dkt. No. 56) to dismiss plaintiff's amended complaint (Dkt. No. 15) for failure to state a claim. Upon referral pursuant to 28 U.S.C. § 636(b)(1)(B) and Local Rule 72.3(c), United States Magistrate Judge Terèse Wiley Dancks has issued a thorough Order and Report-Recommendation (Dkt. No. 68) recommending that the motion be granted in part and denied in part.

The Court has received no objection from plaintiff. Defendants object on narrow grounds (Dkt. No. 70). Pursuant to 28 U.S.C. § 636(b)(1)(C), this Court reviews *de novo* those parts of a report and recommendation to which a party specifically objects.

Defendants' first objection is that plaintiff's New York State Constitutional claims should have been dismissed based on section 24 of the New York Correction Law. The Court agrees; section 24 bars all claims based on New York State law. *See, e.g., Doe v. New York*, 2012 WL 4503409, *7 (E.D.N.Y. Sept. 28, 2012).

Second, defendants point out that, in an apparent oversight, Magistrate Judge Dancks did not include in her recommendations the dismissal of plaintiff's free exercise claim against defendants Cheryl Morris and Paul Guenette (incorrectly sued as Paul Greenth) with regard to the denial of Passover meals March 31, 2013. The Court agrees with Magistrate Judge Dancks's conclusion in the body of the Order and Report and Recommendation that this claim must be dismissed against these two defendants.

It is therefore

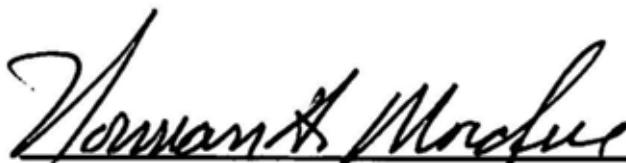
ORDERED that the Order and Report-Recommendation by United States Magistrate Judge Terèse Wiley Dancks (Dkt. No. 68) is accepted in part and rejected in part as follows:

- All New York State Constitutional claims in the amended complaint (Dkt. No. 15) are dismissed;
- The free exercise claim against defendants Cheryl Morris and Paul Guenette (incorrectly sued as Paul Greenth) with regard to the denial of Passover meals on March 31, 2013 is dismissed; and
- The Order and Report-Recommendation is otherwise accepted in all respects; and it is further

ORDERED that the Clerk of the Court is directed to serve copies of this Memorandum-Decision and Order in accordance with the Local Rules of the Northern District of New York.

IT IS SO ORDERED.

Date September 15, 2014
Syracuse, New York



Norman A. Mordue
Senior U.S. District Judge